

EXHIBIT U

**REDACTED IN ITS
ENTIRETY**

EXHIBIT V

**REDACTED IN ITS
ENTIRETY**

EXHIBIT W

**REDACTED IN ITS
ENTIRETY**

EXHIBIT X

J. Andrew Langan
Nader R. Boulos
Kirkland & Ellis LLP
200 East Randolph Drive
Chicago, Illinois 60601-6636
Telephone: 312-861-2000
Facsimile: 312-861-2200

Attorneys for Abbott Laboratories

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

ALBERTSON'S, INC., et al.,

Plaintiffs,

v.

ABBOTT LABORATORIES, et al.,

Defendants.

Case No. 94-CV-03669
Hon. Charles P. Kocoras

**MEMORANDUM IN SUPPORT OF ABBOTT
LABORATORIES' MOTION FOR PERMISSION
TO USE DOCUMENTS COVERED BY A
PROTECTIVE ORDER**

Preliminary Statement

Abbott Laboratories ("Abbott") respectfully submits this memorandum in support of its motion for permission to use certain materials produced or filed in this action (the "ND Illinois Action") in consolidated actions pending in the United States District Court for the District of Delaware (the "Delaware Action"). Abbott needs the Court's permission because some of the materials (the "ND Illinois Action Materials") are covered by the protective order entered in the multi-district litigation captured In Re Brand Name Prescription Drug Litigation (No. 94 C 897) (MDL 997). The protective order (the "BNPD Protective Order") is attached as

Exhibit B to the June 9, 2006 declaration of Nader R. Boulos ("Boulos Decl.") submitted herewith.

**Abbott needs the ND Illinois
Action Materials for its defense
in the Delaware Action and its
opposition to class certification**

The various actions consolidated in the Delaware Action allege that Abbott has violated the Sherman Act in connection with Abbott's competition with generic drug manufacturers. A disputed issue on the merits and in connection with certification of a proposed class in the Delaware Action concerns the power of certain plaintiffs and certain members of the putative class to influence demand for prescription drugs and generic drugs.

Materials produced and filed in the ND Illinois Action will be relevant to those issues in the Delaware Action. Abbott was a party in the ND Illinois Action until October, 1998, and all remaining claims in the case were dismissed with prejudice on July 8, 2003. Before the claims against Abbott in the ND Illinois Action were terminated, Abbott received expert reports and other materials from the plaintiffs in the ND Illinois Action that contain information about the power of certain purchasers of prescription and generic drugs to influence demand for those drugs. That information is relevant to Abbott's defenses in the Delaware Action and is relevant to Abbott's opposition to certification of a putative class of direct purchasers.

As defined by the plaintiffs in the Delaware Action, a direct purchaser class would include purchasers that do not have power to influence demand (e.g., wholesalers) and would include purchasers that claim to have such power (e.g., retailers, such as Albertson's). Abbott will argue in the Delaware Action that the material differences among members of the putative class weigh against certification of a class. On information and belief, that argument will be supported by information contained in the ND Illinois Action Materials.

Much of the ND Illinois Action Material is covered by the BNPD Protective Order. Abbott therefore needs the Court's permission to use the ND Illinois Action Material in the Delaware Action.

Abbott's proposed order protects the ND Illinois Action Material

Abbott's proposed order (Exhibit C to the Boulos Decl.) requires Abbott to protect any ND Illinois Action Materials that are covered by the BNPD Protective Order. If protected ND Illinois Action Materials are used by Abbott in the Delaware Action, Abbott must follow the terms for "Highly Confidential Material" set forth in the protective order entered in the Delaware Action on March 1, 2006 (the "Delaware Action Protective Order"). A copy of the Delaware Action Protective Order is attached to the Boulos Decl. as Exhibit A.

The Delaware Action Protective Order has three categories for confidential information. Boulos Decl. Exhibit A at Section C, ¶¶ 1-3. The "Highly Confidential Material" category provides virtually the same protections as the protections of the BNPD Protective Order. Compare Boulos Decl. Exhibit A at Section D, ¶ 2 with Boulos Decl. Exhibit B at ¶ 4.

In particular, the Delaware Action Protective Order allows "Highly Confidential Material" to be seen by outside counsel; a limited number of in-house counsel; outside experts and consultants; the Delaware court; witnesses; duplicating services; the Federal Trade Commission; authors of materials; and representatives of the producing party. See Boulos Decl. Exhibit A at Section D, ¶ 2. The BNPD Protective Order also allows disclosure of confidential information to outside counsel; experts and consultants; witnesses; deponents; the Court; and in-house counsel. See Boulos Decl. Exhibit B at ¶ 4(a)-(f). The "Restricted Pricing Material" category of the Delaware Action Protective Order is narrower than the "Highly Confidential Material" and, unlike the BNPD Protective Order, precludes disclosure to in-house counsel. See

Boulos Decl. Exhibit A at Section D, ¶ 3. That category is more restrictive than the BNPD Protective Order and would not be appropriate for the ND Illinois Action Materials that are covered by the BNPD Protective Order. The “Highly Confidential Material” category is the appropriate one to use for the ND Illinois Action Materials.

**Abbott needs to proceed
on an expedited schedule**

Abbott’s opposition to the motion to certify a direct purchaser class in the Delaware Action is due on July 14, 2006. Abbott therefore requests expedited consideration of its motion. If the Court grants the motion, Abbott’s counsel in the Delaware Action needs time to review the ND Illinois Action Materials and incorporate them in Abbott’s opposition to class certification.

Dated: Chicago, Illinois
June 12, 2006

KIRKLAND & ELLIS LLP

By: /s/ Nader R. Boulos
J. Andrew Langan
Nader R. Boulos (6224518)
KIRKLAND & ELLIS LLP
200 East Randolph Drive
Chicago, Illinois 60601-6636
Telephone: 312-861-2000
Facsimile: 312-861-2200

Attorneys for Abbott Laboratories

CERTIFICATE OF SERVICE

I hereby certify that on June 12, 2006, I electronically served a true and correct copy of the foregoing MEMORANDUM IN SUPPORT OF ABBOTT LABORATORIES' MOTION FOR PERMISSION TO USE DOCUMENTS COVERED BY A PROTECTIVE ORDER via the United States District Court for the Northern District of Illinois' CM/ECF system, which will send notification of filing to all registered counsel of record, and upon the following counsel via facsimile:

Counsel	Firm	Fax	Phone
Richard Alan Arnold William J. Blechman Scott E. Perwin	Kenny, Nachwalter	305-372-1861	305-373-1000
Douglas H. Patton	Dewsnup, King & Olson	801-363-4218	801-533-0400
Cynthia L. Gibson Robert Alexander Pitcairn, Jr.	Katz, Teller, Brant	513-721-7120	513-721-4532
George R. Kucik	Arent, Fox, Kintner	202-857-3695	202-857-6000
D. Michael Crites Neil K. Evans	Hahn, Loeser & Parks	614-221-5909	614-221-0240
Thomas L. Long Otto A. Beatty III Elizabeth L. Hnedershot	Baker & Hostetler	614-462-2616	614-228-1541
Jacqueline A. Criswell	Tressler, Soderstrom	312-627-1717	312-627-4000
Arthur F. Golden	Davis, Polk	212-450-4800	212-450-4000
Kenneth R. Logan Joseph F. Tringali Jayma M. Meyer	Simpson Thacher	212-450-2502	212-455-4000
Douglas D. Broadwater Stephen S. Madsen	Cravath, Swaine & Moore	212-474-3700	212-474-1000
Wayne Cross Robert Milne	White & Case LLP	212-354-8113	212-819-8200
Kenneth M. Kramer James Tallon	Shearman & Sterling	212-848-7179	212-848-4000
Robert K. Stanley James H. Ham, III	Baker & Daniels	317-237-1000	317-237-0300
John Treece	Sidley Austin	312-853-7036	312-853-7000
Kenneth Letzler Jerome Chapman John Freedman	Arnold & Porter	202-942-5999	202-942-5000

J. Thomas Rosch Peter Huston	Latham & Watkins	415-395-8095	415-391-0600
David Klingsberg David S. Copeland Robert Grass	Kaye Scholer LLP	212-836-8689	212-836-8000
Mary B. Cranston Terrence A. Callan	Pillsbury Wintrop LLP	415-983-1200	415-983-1000
John W. Nields, Jr. John G. Calendar	Howrey Simon Arnold & White LLP	202-383-6610	202-383-0800
Mark Stewart Stephen J. Kastenber	Ballard, Spahr	215-864-8999	215-864-8200
Scott A. Stempel Christine A. Laciak	Morgan, Lewis & Bockius, LLP	202-739-3001	202-739-3000

/s/ Nader R. Boulos (nboulos@kirkland.com)
Counsel for Abbott Laboratories

EXHIBIT Y

REDACTED IN ITS ENTIRETY

EXHIBIT Z

**REDACTED IN ITS
ENTIRETY**